

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24119  
Docket Number MS-24169

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: { Steven Singfield  
(Consolidated Rail Corporation)

STATEMENT OF CLAIM: "(1) Whether the termination of claimants employment by Conrail for alleged insubordination was tainted by racial animus?

(2) Whether the termination of the claimant by Conrail was disproportionately excessive in relation to the alleged offense?"

OPINION OF BOARD: Claimant entered service on August 16, 1976 as a trackman in the Metropolitan Region. Claimant was notified by Carrier to attend a hearing which was to be held on July 9, 1979 (which hearing was subsequently postponed until July 11, 1979) in connection with Claimant's alleged refusal to perform duties assigned to him by his For- on June 14, 1979. On September 17, 1979 Claimant was notified that he had been found guilty of insubordination and was dismissed from service.

A close analysis of all supporting materials presented to the Board as they relate to this case, including the hearing transcript, leads this Board to several conclusions. First of all, **Statement** of Claim, part one (1) (from which **Statement** of Claim, part two (2) a fortiori must be sustained or denied as a consequence) does not, in itself, ask for **remedy growing** out of a **grievance** or an interpretation or application of an Agree-t, thus voiding this Board's jurisdiction in this instance under Section 3, First (1) of the Railway Labor Act. **This** Board's position on this issue **in** this case is not novel, but has been sustained by precedent in like instances (See, for example, PLB No. 909, Award No. 1). Secondly, there is a well established tradition whereby the Board, in its appellate **function**, deals only with those issues in any given case which were covered on property (Third Division, No. 22405 inter alia). This case contravenes this tradition by the substance of its **Stat-t of Claim**; the issue of racial animus was not raised on property as psrt of the proceedings as witnessed by both the transcript of the hearing and by Exhibit 2 **of** Claimant's submission. The issue of racial animus was being **processed**, **however**, by Claimant through another, and separate **forum** of relief. Further, the issue of excessive discipline was not raised on property.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

**That** the parties waived oral hearing;

**That** the Carrier and the **Employees** involved in this dispute are respectively Carrier and **Employees** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

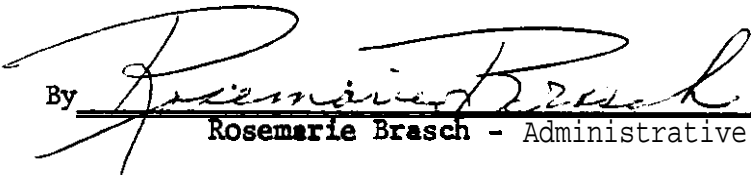
That the claim is barred.

A W A R D

**Claim** dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By **Order** of Third Division

Attest: Acting Executive Secretary  
National Railroad **Adjustment Board**

By   
**Rosemarie Brasch** - Administrative Assistant

Dated at Chicago, Illinois, this **14th** day of **January** 1983.

